

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

IN RE: )  
 )  
Paul R. Joyner, ) Case No. 08-81507C-13D  
 )  
Debtor. )  
 )

OPINION AND ORDER

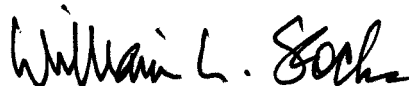
This case came before the court on May 13, 2009, for hearing on a motion for extension of time to file objection to discharge of debt filed on behalf of Linda Harris-Dickens and Claude James Pinnix ("Movants"). Ruben Fernandez appeared on behalf of the Movants, R. David Wicker, Jr., appeared on behalf of the Debtor and Richard M. Hutson II appeared as Chapter 13 Trustee. Having considered the motion, matters of record and the arguments of counsel, the court has concluded that the motion should be denied.

The motion seeks an extension of time within which to object, pursuant to section 523(a)(2) and (4), to the discharge of indebtedness allegedly due from the Debtor. Pursuant to Bankruptcy Rule 4007(c), the deadline for filing a complaint asserting such an objection was January 24, 2009. Rule 4007(c) authorizes the court for cause to extend the time for filing fixed thereunder but only if the motion seeking such an extension is filed before the time has expired. Movants' motion was filed on March 13, 2009, and hence was untimely. If the Movants did not have notice or actual knowledge of this case in time to file a timely complaint, their

remedy lies in section 523(a)(3)(B)<sup>1</sup> rather than an untimely motion to extend.

It is, therefore, ORDERED that the motion for extension of time shall be and hereby is overruled and denied.

This 27th day of May, 2009.



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WILLIAM L. STOCKS  
United States Bankruptcy Judge

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<sup>1</sup>Under section 523(a)(3)(B), a discharge under section 727, 1141, 1228(a), 1228(b), or 1328(b) does not discharge an individual debtor from any debt "neither listed nor scheduled under section 521(1) of this title, with the name, if known to the debtor, of the creditor to whom such debt is owed in time to permit . . . if such debt is of a kind specified in paragraph (2), (4), or (6) of this subsection, timely filing of a proof of claim and timely request for a determination of dischargeability of such debt under one of such paragraphs, unless such creditor had notice or actual knowledge of the case in time for such filing and request. . . ."

PARTIES TO BE SERVED:

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